

## THE WESTON FIRM

1405 Morena Blvd., Ste. 201 | San Diego, CA 92110

TEL: 619-798-2006  
FAX: 480-247-4553  
www.westonfirm.com

December 5, 2012

**Via: Certified Mail, receipt acknowledgment with signature requested**

G.J. Hart, Chief Executive Officer  
California Pizza Kitchen, Inc.  
6053 W. Century Blvd., 11th Floor  
Los Angeles, CA 90045

Chris Johnson, Executive Vice-President  
Nestle USA, Inc.  
800 N. Brand Boulevard  
Glendale, CA 91203

Dale Giali, Counsel  
Mayer Brown LLP  
350 South Grand Ave, 25th Floor  
Los Angeles, CA 90071-1503

**Re: Demand Letter, Notice of Anticipated Litigation & Duty to Preserve Evidence**

Messrs. Hart, Johnson and Giali,

We write on behalf of our client, Katie Simpson, in order to determine whether a pre-litigation settlement is possible for her claims under California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.* ("UCL").

Ms. Simpson has purchased several of your frozen pizza products (under various brands) containing partially hydrogenated vegetable oil and, therefore, artificial trans fat. Artificial trans fat is a dangerous and toxic ingredient for which there are many safe substitutes and, indeed, many of your competitors sell frozen pizza products that do not contain any trans fat.

The UCL prohibits unfair business practices. The use of "unfair" in the statute "is intentionally broad, thus allowing courts maximum discretion to prohibit new schemes to defraud." *Smith v. State Farm Mut. Auto Ins. Co.*, 93 Cal. App. 4th 700, 718 (2001). Courts have construed "unfair" practices as those that: (1) are immoral, unethical, unscrupulous, or substantially injurious to consumers, where the utility of the practice does not outweigh the gravity of harm to its victims; (2) violate public policy as declared by specific constitutional, statutory or regulatory provisions; or (3) cause consumers substantial injury that is not outweighed by benefits to consumers or competition, and which consumers could not themselves reasonably have avoided.

Gregory S. Weston, | greg@westonfirm.com | 619-798-2006

Notably, the first “unfair” test (the balancing test) is manifestly, a question of fact for a jury. *See, e.g., In re iPhone Application Litig.*, 844 F. Supp. 2d 1040, 1073 (N.D. Cal. 2012) (“While the benefits of Apple’s conduct may ultimately outweigh the harm to consumers, this is a factual determination that cannot be made at this stage of the proceedings.”); *King v. Bank of Am., N.A.*, 2012 U.S. Dist. LEXIS 141963, at \*25 (N.D. Cal. Oct. 1, 2012) (denying motion to dismiss UCL “unfair” claim where “Defendants actions as alleged in the Complaint could constitute an unfair business practice” under balancing test); *Rezner v. Bayerische Hypo-Und Vereinsbank AG*, 2011 U.S. Dist. LEXIS 148592, at \*21 (N.D. Cal. Nov. 8, 2011) (“where the pleading states a *prima facie* case of harm stemming from an apparently unfair business practice, dismissal on the pleadings is usually inappropriate, as the court cannot weigh the utility of the defendant’s conduct without analysis of some evidence”); *Motors, Inc. v. Times Mirror Co.*, 102 Cal. App. 3d 735, 740 (1980) (“whether a particular business practice is unfair *necessarily involves an examination of its impact on its alleged victim, balanced against the reasons, justifications and motives of the alleged wrongdoer*” (emphasis added)).

The second “unfair” test (the public policy test) is supported in this case by the public policy goals embodied in the California Legislature’s statutes prohibiting the use of artificial trans fat in schools and restaurants. *See* Cal. Educ. Code § 49431.7, Cal. Health & Saf. Code § 114377.

And the third “unfair” test (the FTC Test), like the first, requires a balancing and determination of what consumers might do, *vel non*, to avoid injury. Therefore it is also highly fact-intensive.

Given the harm and lack of utility in your practice of using trans fat in your frozen pizza products, and its antagonism to public policy, Ms. Simpson, on behalf of herself, all others similarly situated, and the general public, hereby demands that you remedy these violations of the UCL as follows:

- Cease your practice of adding artificial trans fat, in the form of partially hydrogenated oils to the products identified in Appendix A to the enclosed draft class action complaint; and
- Agree to reimburse all U.S. purchasers of the products identified in Appendix A during the past 3 years, by creating a common fund against which consumers may make claims (which may also pay notice and administration costs).

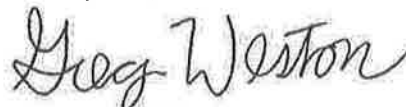
If you do not take prompt corrective action, our client will seek relief, including but not limited to the above, in the United States District Court on behalf of herself, all others similarly situated, and the general public.

Given the gravity of the harm the business practice of adding artificial trans fat to foods intended for human consumption imposes on the public-at minimum 30,000 excess deaths in the United States alone- we can only defer filing absent a firm tolling agreement until the first week of the new year.

Page 3 of 3

Finally, I remind you of your legal duty to preserve all records relevant to such litigation. See, e.g., *Convolve, Inc. v. Compaq Computer Corp.*, 223 F.R.D. 162, 175 (S.D.N.Y. 2004); *Computer Assoc. Int'l v. American Fundware, Inc.*, 133 F.R.D. 166, 168-69 (D. Colo. 1990). We anticipate seeking in discovery all e-mails, letters, reports, internal corporate instant messages, and laboratory records that relate to the formulation and marketing of the frozen pizza products identified in Appendix A to the enclosed Complaint. You therefore must inform any employees, contractors, and third-party agents (for example product consultants, advertising agencies handling your product accounts, distributors, suppliers and vendors) to preserve all such relevant information.

Very truly yours,

A handwritten signature in cursive script that reads "Greg Weston".

Gregory S. Weston  
Jack Fitzgerald

Enclosure

Gregory S. Weston | greg@westonfirm.com | 619-798-2006

1 **THE WESTON FIRM**  
2 GREGORY S. WESTON (239944)  
3 *greg@westonfirm.com*  
4 JACK FITZGERALD (257370)  
5 *jack@westonfirm.com*  
6 MELANIE PERSINGER (275423)  
7 *mel@westonfirm.com*  
8 1405 Morena Blvd., Suite 201  
9 San Diego, CA 92110  
10 Telephone: (619) 798-2006  
11 Facsimile: (480) 247-4553

12 **Counsel for Plaintiff and the Proposed Class**

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

KATIE SIMPSON, on behalf of herself and  
all others similarly situated,

Plaintiff,

v.

CALIFORNIA PIZZA KITCHEN, INC.  
and NESTLE USA, INC.

Defendants.

Case No: \_\_\_\_\_

**CLASS ACTION COMPLAINT**

**COMPLAINT FOR VIOLATIONS OF THE  
UNFAIR COMPETITION LAW**

1 Plaintiff Katie Simpson, on behalf of herself, all others similarly situated, and the general public,  
2 by and through undersigned counsel, hereby sues Defendants California Pizza Kitchen, Inc. ("CPK")  
3 and Nestle USA, Inc. ("Nestle"), and upon information and belief and investigation of counsel, alleges  
4 as follows:

#### 5 JURISDICTION AND VENUE

6 1. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d)(2) (The  
7 Class Action Fairness Act) because the matter in controversy exceeds the sum or value of \$5,000,000  
8 exclusive of interest and costs and because more than two-thirds of the members of the class defined  
9 herein reside in states other than the state of which Defendants are citizens.

10 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Plaintiff resides in  
11 and suffered injuries as a result of Defendants' acts in this District, many of the acts and transactions  
12 giving rise to this action occurred in this District, and Defendants: (1) are authorized to conduct business  
13 in this District and have intentionally availed themselves of the laws and markets of this District through  
14 the distribution and sale of their products in this District; (2) reside in this District; and (3) are subject to  
15 personal jurisdiction in this District.

#### 16 NATURE OF THE ACTION

17 3. Defendants manufacture and sell a variety of frozen pizzas containing partially  
18 hydrogenated vegetable oil ("PHVO"), a food additive banned in many parts of the world due to its  
19 artificial trans fat content. Artificial trans fat is a toxic carcinogen for which there are many safe and  
20 commercially acceptable substitutes. Defendants' pizza brands containing PHVO include DiGiorno,  
21 California Pizza Kitchen ("CPK"), and Stouffer's (the "Nestle Trans Fat Pizzas").

22 4. Plaintiff Katie Simpson repeatedly purchased Nestle Trans Fat Pizzas during the Class  
23 Period defined herein.

24 5. Although there are safe and commercially acceptable alternatives to trans fat, including  
25 those used in competing brands and even in a few Nestle and CPK products, Defendants unfairly elect  
26 *not* to use those substitutes in the Nestle Trans Fat Pizzas in order to increase profit at the expense of  
27 consumer health.

6. This action is brought to remedy Defendants' unlawful conduct. On behalf of the class defined herein, Plaintiff seeks an order compelling Defendants to, *inter alia*: (1) cease using artificial trans fat as an ingredient in the Nestle Trans Fat Pizzas and (2) award Plaintiff and the Class restitution.

#### PARTIES

7. Defendant Nestle USA, Inc. is a Delaware corporation with its headquarters and principal place of business in Glendale, California. Nestle owns, manufactures and sells the Nestle Trans Fat Pizzas, more particularly identified in Appendix A hereto.

8. Defendant California Pizza Kitchen is a Delaware corporation with its principal place of business in Los Angeles, California. California Pizza Kitchen licenses its trademarks and proprietary recipes to Nestle for the manufacturing and distribution of a line of California Pizza Kitchen frozen pizzas sold throughout the United States.

9. Defendant Nestle USA, Inc. is owned by Nestle, S.A., a Swiss corporation located at Avenue Nestle 55, Vevey, Switzerland.

10. Plaintiff Katie Simpson is a resident of unincorporated San Diego County, California who repeatedly purchased the Nestle Trans Fat Pizzas for personal and household consumption.

#### FACTS

11. Artificial trans fat is manufactured via an industrial process called partial hydrogenation, in which hydrogen atoms are added to normal vegetable oil by heating the oil to temperatures above 400 degrees Fahrenheit in the presence of ion donor catalyst metals such as rhodium, ruthenium, and nickel.<sup>1</sup> The resulting product is known as partially hydrogenated vegetable oil, or PHVO, which is the main source of trans fat in the American diet and used in dangerous quantities in the Nestle Trans Fat Pizzas.

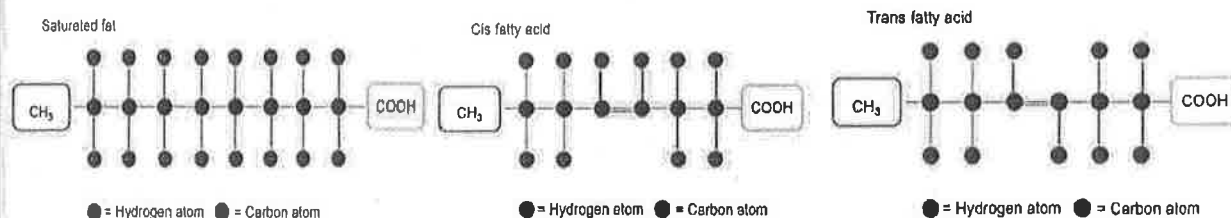
12. PHVO was invented in 1901 and patented in 1902 by German chemist Wilhelm Normann. PHVO molecules chemically differ from the natural fat molecules in other food products.<sup>2</sup>

<sup>1</sup> See Alice H. Lichtenstein, *Trans Fatty Acids, Plasma Lipid Levels, and Risk of Developing Cardiovascular Disease*, 95 *Circulation* 2588, 2588-90 (1997).

<sup>2</sup> See Alberto Ascherio et al., *Trans Fatty Acids & Coronary Heart Disease*, 340 *New Eng. J. Med.* 94, 94-8 (1999). See also Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., Questions &



13. Natural fat, except the trace amounts of natural trans fat from ruminant animals, comes in two varieties: (1) fats that lack carbon double bonds (“saturated fat”) and (2) fats that have carbon double bonds with the hydrogen atoms on the same side on the carbon chain (“cis fat”). Trans fat, however, has double bonds on opposite sides of its carbon chain.



14. PHVO was initially a “wonder product” attractive to the packaged food industry because it combines the low cost of unsaturated cis fat with the flexibility and long shelf life of saturated fat. Like cis fat, PHVO is manufactured from lower-cost legumes,<sup>3</sup> while saturated fat is derived from relatively expensive animal and tropical plant sources.<sup>4</sup> Given its versatility, PHVO was recently used in 40 percent of processed packaged foods.<sup>5</sup> Now, because of health concerns, that percentage is far lower. Defendants, however, have decided not to follow their more responsible peers and cease using PHVO, instead placing profits over public health and poisoning their consumers with the Nestle Trans Fat Pizzas.

15. Artificial trans fat does not exist in nature, and the human body has not evolved to digest it. The same unusual and unnatural chemical structure that makes artificial trans fat attractive from an industrial perspective makes it highly toxic to human health.

16. In particular, PHVO causes cardiovascular heart disease, diabetes, cancer, Alzheimer’s disease, and accelerates cognitive decline in diabetics.

Answers About *Trans* Fat Nutrition Labeling (Update 2006) (2003), available at <http://www.cfsan.fda.gov/%7Edms/qatrans2.html>

<sup>3</sup> e.g., corn oil, soybean oil, peanut oil

<sup>4</sup> e.g., butter, cream, tallow, coconut oil

<sup>5</sup> Mary Carmichael, *The Skinny on Bad Fat*, Newsweek, Dec. 1, 2003, at 66. See also Kim Severson, *Hidden Killer. It’s Trans Fat. It’s Dangerous. And It’s In Food You Eat Every Day*, S.F. Chron., Jan. 30, 2002.

17. While many packaged food manufacturers have removed PHVO from their products as its extreme damage to human health has become ever clearer, Defendants have chosen to continue to gravely harm their customers by continuing to use PHVO in the Nestle Trans Fat Pizzas.

***There is a Well-Established Scientific Consensus That Trans Fat is Extremely Harmful***

18. There is “no safe level” of artificial trans fat intake.<sup>6</sup>

19. According to the established consensus of the scientific community, consumers should keep their consumption of trans fat “as low as possible.”<sup>7</sup>

20. In addition, “trans fatty acids are not essential and provide no known benefit to human health.”<sup>8</sup> Thus, while “the [Institute of Medicine] sets tolerable upper intake levels (UL) for the highest level of daily nutrient intake that is likely to pose no risk of adverse health effects to almost all individuals in the general population[,] . . . the IOM does **not** set a UL for trans fatty acid because **any** incremental increase in trans fatty acid intake increases the risk of CHD.”<sup>9</sup> (emphasis added). In addition, while “trans fats are naturally occurring in some foods that contribute essential nutrients . . . [such that] consuming zero percent of energy as trans fat would require substantial adjustments to the diet that may have undesirable effects,” the FDA’s “[r]ecommendations are for Americans to limit trans fat consumption as much as possible while consuming a nutritionally adequate diet.”<sup>10</sup> (citations omitted).

21. Dariush Mozaffarian of Harvard Medical School writes in the New England Journal of Medicine:

[T]rans fats from partially hydrogenated oils have no intrinsic health value above their caloric value. Thus from a nutritional standpoint, the consumption of trans fatty acids results in considerable potential harm but no apparent benefit. . . . Thus, complete or near-complete avoidance of industrially produced trans fat—a

<sup>6</sup> Food & Nutrition Bd., Inst. of Med., *Dietary Reference Intakes For Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids* (2005).

<sup>7</sup> *Id.*

<sup>8</sup> 75 Fed. Reg. at 76542.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*



consumption of less than 0.5 percent of the total energy intake—may be necessary to avoid adverse effects and would be prudent to minimize health risks.<sup>11</sup>

22. Today there is no question about the scientific consensus on trans fat. Dr. Julie Louise Gerberding, former director of the Center for Disease Control, writes:

The scientific rationale for eliminating exposure to artificial trans fatty acids in foods is rock solid. There is no evidence that they provide any health benefit, and they are certainly harmful. These compounds adversely affect both low- and high-density lipoprotein cholesterol levels and increase the risk for coronary heart disease, even at relatively low levels of dietary intake. Gram for gram, trans fats are far more potent than saturated fats in increasing the risk for heart disease, perhaps because they also have pro-inflammatory properties and other adverse effects on vascular endothelium. The strong evidence of harm motivated the Institute of Medicine to issue recommendations that the intake of trans fats be minimized and prompted the [FDA] to require the addition of information about trans fat content to food labels beginning in 2006. Eliminating exposure to these dangerous fats could have a powerful population impact—potentially protecting 30,000 to 100,000 Americans from death related to heart disease each year.<sup>12</sup>

23. Walter Willett, Professor of Medicine at Harvard Medical School, concludes in an article in the New England Journal of Medicine:

Given the adverse effects of trans fatty acids on serum lipid levels, systemic inflammation, and possibly other risk factors for cardiovascular disease and the positive associations with the risk of CHD, sudden death from cardiac causes, and possibly diabetes, the potential for harm is clear. The evidence and the magnitude of adverse health effects of trans fatty acids are in fact far stronger on average than those of food contaminants or pesticide residues, which have in some cases received considerable attention. Furthermore, trans fats from partially hydrogenated oils have no intrinsic health value above their caloric value. Thus, from a nutritional standpoint, the consumption of trans fatty acids results in considerable potential harm but no apparent benefit.<sup>13</sup>

24. Given its nature as an artificial chemical not naturally found in any food and the considerable harm that causes to human health, Dr. Willet finds the most direct analogue of trans fat to be not any natural fat but contaminants such as pesticides. He states that banning trans fat

<sup>11</sup> Mozaffarian, 354 New Eng. J. Med. at 1608-1609.

<sup>12</sup> Julie Louise Gerberding, MD, MPH, *Safer Fats for Healthier Hearts: The Case for Eliminating Dietary Artificial Trans Fat Intake*, Ann. Intern. Med., 151:137-138 (2009)

<sup>13</sup> Dariush Mozaffarian, M.D., M.P.H., Martijn B. Katan, Ph.D., Alberto Ascherio, M.D., Dr.P.H., Meir J. Stampfer, M.D., Dr.P.H., and Walter C. Willett, M.D., Dr.P.H., *Trans Fatty Acids and Cardiovascular Disease*, N. Engl. J. Med. 354:1601-13 (2006).

1 “is a food safety issue . . . this is actually contamination.”<sup>14</sup>

2 *Artificial Trans Fat Is So Inherently Dangerous It Has Been Banned by an Increasing Number of*  
 3 *American States and Governments Abroad*

4 25. In 2008, California became the first state to ban all restaurant food with artificial trans  
 5 fat, a law affecting approximately 88,000 eating establishments. Trans fats now may not be served in  
 6 California’s schools or restaurants.<sup>15</sup>

7 26. New York City banned all trans fat in its 20,000 food establishments in 2006. Similar  
 8 laws exist in Philadelphia; Baltimore; Stamford, Connecticut; and Montgomery County, Maryland.

9 27. A 2004 Danish law restricted all foods to under 2 percent of calories from trans fat.  
 10 Switzerland made the same restriction in 2008.<sup>16</sup>

11 28. After conducting a surveillance study of Denmark’s trans fat ban, researchers concluded  
 12 the change “did not appreciably affect the quality, cost or availability of food” and did not have “any  
 13 noticeable effect for the consumers.”<sup>17</sup>

14 29. Similar bans have been introduced in Austria and Switzerland. Brazil, Argentina, Chile  
 15 and South Africa have all taken steps to reduce or eliminate trans fats from food.<sup>18</sup>

16 30. In 2006, a trans fat task force co-chaired by Health Canada and the Heart and Stroke  
 17 Foundation of Canada recommended capping trans fat content at 2 percent of calories for tub margarine  
 18 and spreads and 5 percent for all other foods. On September 30, 2009, British Columbia became the first  
 19 province to impose these rules on all restaurants, schools, hospitals, and special events.<sup>19</sup>

20  
 21 <sup>14</sup> Coombes, Rebecca. Trans fats: chasing a global ban, 343 British Med. J. (2011).

22 <sup>15</sup> Cal. Educ. Code § 49431.7, Cal. Health & Saf. Code § 114377.

23 <sup>16</sup> Andrew Collier, *Deadly Fats: Why Are We still Eating Them?*, The Independent (UK), June 10, 2008.

24 <sup>17</sup> Mozaffarian, 354 New Eng. J. Med. at 1610; *see also* Stender, Steen. High Levels of Industrially  
 25 Produced *Trans* Fat in Popular Fast Food, 354 New Eng. J. Med. 1650, 1652 (2006).

26 <sup>18</sup> Coombes, Rebecca. Trans fats: chasing a global ban, 343 British Med. J. (2011).

27 <sup>19</sup> *Province Restricts Trans Fat in B.C.*, British Columbia Ministry of Healthy Living and Sport Press  
 28 Release (2009), available at [http://www2.news.gov.bc.ca/news\\_releases\\_2005-2009/2009HLS0013-000315.htm](http://www2.news.gov.bc.ca/news_releases_2005-2009/2009HLS0013-000315.htm).

1 *The Artificial Trans Fat in Nestle Trans Fat Pizzas Causes Cardiovascular Disease*

2 31. Trans fat raises the risk of CHD more than any other known nutritive product.<sup>20</sup>

3 32. Removing trans fat equal to 2% of total calories from the American diet “would prevent  
4 approximately 30,000 premature coronary deaths per year, and epidemiologic evidence suggests this  
5 number is closer to 100,000 premature deaths annually.”<sup>21</sup>

6 33. “10 to 19 percent of CHD events in the United States could be averted by reducing the  
7 intake of trans fat.”<sup>22</sup>

8 34. By raising LDL levels and lowering HDL levels, trans fat causes a wide variety of  
9 dangerous heart conditions, including low flow-mediated vasodilation, coronary artery disease, and  
10 primary cardiac arrest.

11 35. In a joint Dietary Guidelines Advisory Committee Report, the Department of Health and  
12 Human Services and the U.S. Department of Agriculture recognized “[t]he relationship between trans  
13 fatty acid intake and LDL cholesterol is direct and progressive, increasing the risk of cardiovascular  
14 disease.”<sup>23</sup>

15 36. The American Heart Association warns, “trans fats raise your bad (LDL) cholesterol  
16 levels and lower your good (HDL) cholesterol levels. Eating trans fats increases your risk of developing  
17 heart disease.”<sup>24</sup>

18 37. After a review of literature on the connection between the consumption of artificial trans  
19 fat and coronary heart disease, the FDA concluded:

20 [B]ased on the consistent results across a number of the most persuasive types of  
21 study designs (i.e., intervention trials and prospective cohort studies) that were

22 <sup>20</sup> Mozaffarian, 354 New Eng. J. Med. at 1603.

23 <sup>21</sup> Alberto Ascherio et al., *Trans Fatty Acids & Coronary Heart Disease*, 340 New Eng. J. Med. 94, 94-  
24 8 (1999).

24 <sup>22</sup> Mozaffarian, 354 New Eng. J. Med. at 1611.

25 <sup>23</sup> Dep’t of Health & Human Serv. & U.S. Dep’t of Agric., 2005 Dietary Guidelines Advisory  
26 Committee Report, Section 10 (2005).

27 <sup>24</sup> Am. Heart Ass’n., *Trans Fat Overview*, available at  
28 [http://www.heart.org/HEARTORG/GettingHealthy/FatsAndOils/Fats101/Trans-Fats\\_UCM\\_301120\\_Article.jsp](http://www.heart.org/HEARTORG/GettingHealthy/FatsAndOils/Fats101/Trans-Fats_UCM_301120_Article.jsp)

1 conducted using a range of test conditions and across different geographical regions  
 2 and populations . . . the available evidence for an adverse relationship between trans  
 fat intake and CHD risk is strong.<sup>25</sup>

3 38. The FDA further found “[t]o date, there have been no reports issued by authoritative  
 4 sources that provide a level of trans fat in the diet . . . below which there is no risk of [Coronary Heart  
 5 Disease].”<sup>26</sup> Rather, there “is a positive linear trend between trans fatty acid intake and LDL cholesterol  
 6 concentration, and therefore there is a positive relationship between trans fatty acid intake and the risk of  
 7 CHD.”<sup>27</sup>

8 39. A study investigating the impact of trans fatty acids on heart health provides evidence  
 9 that:

10 [E]ven the lower estimates from the effects [of PHVO] on blood lipids would suggest  
 11 that more than 30,000 deaths per year may be due to the consumption of partially  
 12 hydrogenated vegetable fat. Furthermore, the number of attributable cases of nonfatal  
 coronary heart disease will be even larger.<sup>28</sup>

13 40. Since “the adverse effect of trans fatty acids is stronger than that of saturated fatty acids,”  
 14 saturated fat consumption would need to be reduced by 10 percent of daily caloric intake to have the  
 15 same impact as a reduction of trans fat equal to 2 percent of daily caloric intake.<sup>29</sup>

16 41. After conducting a crossover diet trial, Danish researchers determined that healthy men  
 17 and women who maintained a high-trans fat diet had 21 percent lower protective HDL levels and 29  
 18 percent lower flow-mediated vasodilation (“FMD”) than those on a high-saturated fat diet. FMD  
 19 measures the percent increase between the diameter of the artery at ordinary and at maximum dilation,  
 20  
 21  
 22

23 <sup>25</sup> Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., Questions & Answers About  
 24 *Trans Fat Nutrition Labeling*.

25 <sup>26</sup> 75 Fed. Reg. 76526, 76542 (Dec. 8, 2010).

26 <sup>27</sup> *Id.*

27 <sup>28</sup> W.C. Willett et al., *Trans Fatty Acids: Are the Effects only Marginal?* 84 Am. J. Pub. Health 722, 723  
 (1994).

28 <sup>29</sup> Mozaffarian, 354 New Eng. J. Med. at 1609.

1 and low FMD is “a risk marker of coronary heart disease.”<sup>30</sup>

2 42. Australian researchers observed that heart attack patients possess elevated amounts of  
3 trans fat in their adipose tissue, strongly linking heart disease with long-term consumption of trans fat.<sup>31</sup>

4 43. By taking blood samples from 179 survivors of cardiac arrest and 285 randomly-selected  
5 control patients and comparing the top fifth with the bottom fifth of participants by trans fat intake,  
6 another study published in the American Heart Association’s *Circulation* found that the largest  
7 consumers of trans fat have three times the risk of suffering primary cardiac arrest, even after controlling  
8 for a variety of medical and lifestyle risk factors.<sup>32</sup>

9 ***The Artificial Trans Fat in Nestle Trans Fat Pizzas Causes Type-2 Diabetes***

10 44. Artificial trans fat causes type-2 diabetes.<sup>33</sup>

11 45. In particular, trans fat disrupts the body’s glucose and insulin regulation system by  
12 incorporating itself into cell membranes, causing the insulin receptors on cell walls to malfunction, and  
13 in turn elevating blood glucose levels and stimulating further release of insulin.

14 46. Researchers at Northwestern University’s medical school found mice show multiple  
15 markers of type-2 diabetes after eating a high trans fat diet for only four weeks.<sup>34</sup>

16 47. By the eighth week of the study, mice fed the diet high in trans fat showed a 500%  
17 increase compared to the control group in hepatic interleukin-1 $\beta$  gene expression, one such marker of  
18 diabetes, indicating the extreme stress artificial trans fat places on the body.<sup>35</sup>

20 <sup>30</sup> Nicole M. De Roos et al., *Replacement of Dietary Saturated Fatty Acids by Trans Fatty Acids Lowers*  
21 *Serum HDL Cholesterol and Impairs Endothelial Function in Healthy Men and Women*, 21 Am. Heart  
22 Assoc. 1233, 1233-37 (2001).

23 <sup>31</sup> Peter M. Clifton et al., *Trans Fatty Acids In Adipose Tissue And The Food Supply Are Associated*  
24 *With Myocardial Infarction*, 134 J. of Nutrition 874, 874-79 (2004).

25 <sup>32</sup> Rozenn N. Lemaitre et al., *Cell Membrane Trans-Fatty Acids and the Risk of Primary Cardiac Arrest*,  
26 105 *Circulation* 697, 697-701 (2002).

27 <sup>33</sup> Am. Heart Ass’n., *Trans Fat Overview*.

28 <sup>34</sup> Sean W. P. Koppe et al., *Trans fat feeding results in higher serum alanine aminotransferase and*  
*increased insulin resistance compared with a standard murine high-fat diet*, 297 Am. J. Physiol.  
Gastrointest Liver Physiol. G378-84 (2009).

<sup>35</sup> *Id.*



48. A 14-year study of 84,204 women found that for every 2 percent increase in energy intake from artificial trans fat, the relative risk of type-2 diabetes was increased by 39 percent.<sup>36</sup>

***The Artificial Trans Fat in Nestle Trans Fat Pizzas Causes Breast, Prostate, and Colorectal Cancer***

49. Trans fat is a carcinogen and causes breast, prostate, and colorectal cancer.

50. A 13-year study of 19,934 French women showed 75 percent more women contracted breast cancer in the highest quintile of trans fat consumption than did those in the lowest.<sup>37</sup>

51. In a 25-year study of 14,916 U.S. physicians, the doctors in the highest quintile of trans fat intake had more than double the risk of developing prostate cancer than the doctors in the lowest quintile.<sup>38</sup>

52. A study of 1,012 American males observing trans fat intake and the risk of prostate cancer found “[c]ompared with the lowest quartile of total trans-fatty acid consumption, the higher quartiles gave odds ratios (ORs) equal to 1.58,” meaning those in the highest quartile are 58% more likely to contract prostate cancer than those in the lowest.<sup>39</sup>

53. A 600-person study found an 86 percent greater risk of colorectal cancer in the highest trans fat consumption quartile.<sup>40</sup>

54. A 2,910-person study found “trans-monounsaturated fatty acids . . . were dose-dependently associated with colorectal cancer risk,” which showed “the importance of type of fat in the etiology and prevention of colorectal cancer.”<sup>41</sup>

<sup>36</sup> Jorge Salmeron et al., *Dietary Fat Intake and Risk of Type 2 Diabetes in Women*, 73 Am. J. of Clinical Nutrition 1019, 1023 (2001).

<sup>37</sup> Véronique Chajès et al., *Association between Serum Trans-Monounsaturated Fatty Acids and Breast Cancer Risk in the E3N-EPIC Study*, 167 Am. J. of Epidemiology 1312, 1316 (2008).

<sup>38</sup> Jorge Chavarro et al., *A Prospective Study of Blood Trans Fatty Acid Levels and Risk of Prostate Cancer*, 47 Proc. Am. Assoc. of Cancer Research 95, 99 (2006).

<sup>39</sup> Xin Liu et al., *Trans-Fatty Acid Intake and Increased Risk of Advanced Prostate Cancer: Modification by RNASEL R462Q Variant*, 28 Carcinogenesis 1232, 1232 (2007).

<sup>40</sup> L.C. Vinikoor et al., *Consumption of Trans-Fatty Acid and its Association with Colorectal Adenomas*, 168 Am. J. of Epidemiology 289, 294 (2008).

<sup>41</sup> Evropi Theodoratou et al., *Dietary Fatty Acids and Colorectal Cancer: A Case-Control Study*, 166 Am. J. of Epidemiology 181 (2007).

1 *The Artificial Trans Fat in Nestle Trans Fat Pizzas Causes Alzheimer's Disease and Cognitive*  
 2 *Decline*

3 55. Trans fat causes Alzheimer's Disease and cognitive decline.

4 56. In a study examining 815 Chicago area seniors, researchers found "increased risk of  
 5 incident Alzheimer disease among persons with high intakes of... trans-unsaturated fats."<sup>42</sup>

6 57. The study "observed a strong increased risk of Alzheimer disease with consumption of  
 7 trans-unsaturated fat."<sup>43</sup>

8 58. In a study of 1,486 women with type 2 diabetes, researchers found "[h]igher intakes of . .  
 9 . trans fat since midlife . . . were [] highly associated with worse cognitive decline . . . ."<sup>44</sup>

10 59. The study cautioned "[d]ietary fat intake can alter glucose and lipid metabolism and is  
 11 related to cardiovascular disease risk in individuals with type 2 diabetes. Because insulin, cholesterol,  
 12 and vascular disease all appear to play important roles in brain aging and cognitive impairments, dietary  
 13 fat modification may be a particularly effective strategy for preventing cognitive decline, especially in  
 14 individuals with diabetes."<sup>45</sup> (citations omitted)

15 **Plaintiff's Purchases of the Nestle Trans Fat Pizzas**

16 60. Plaintiff Katie Simpson repeatedly purchased Nestle Trans Fat Pizzas during the Class  
 17 Period defined herein.

18 61. Ms. Simpson purchased the Nestle Trans Fat Pizzas approximately five times in the past  
 19 year. Her most recent purchase was a CPK Personal Pizza Barbeque Chicken and a CPK Crispy Thin  
 20 Crust Pizza Signature Pepperoni in early October, 2012.

21 62. The most frequent of Ms. Simpson's purchases of Nestle Trans Fat Pizzas were at the  
 22 Target located at 2911 Jamacha Rd., El Cajon, CA 92019.

24 <sup>42</sup> Martha Clare Morris et al., *Dietary Fats and the Risk of Incident Alzheimer Disease*, 60 Arch. Neurol.  
 25 194, 198-199 (2003).

26 <sup>43</sup> *Id.*

27 <sup>44</sup> Elizabeth E. Devore et al., *Dietary Fat Intake and Cognitive Decline in Women with Type 2 Diabetes*,  
 32 Diabetes Care 635 (2009).

28 <sup>45</sup> *Id.*

**The Nestle Trans Fat Pizzas Unnecessarily Contain PHVO and Artificial Trans Fat**

63. Defendants' use of PHVO in the Nestle Trans Fat Pizzas is unnecessary. There are several safe substitutes for PHVO and artificial trans fat. In fact, Defendants manufacture and distribute other frozen pizza products with alternative formulations that do not contain artificial trans fat. For example, Nestle owns, manufactures and sells frozen pizzas under the Tombstone brand, which are not made with artificial trans fat.

64. Similarly, several manufacturers of competing frozen pizza products have responsibly decided to refrain from adding artificial trans fat to their products. Such brands sold in California include Amy's Pizza, distributed by Amy's Kitchen, Inc.; Freschetta Pizza, manufactured by Schwan's Consumer Brand's, Inc.; Glutino Pizza, distributed by Glutino Food Group; Kashi Pizza, distributed by Kashi Sales L.L.C., a subsidiary of the Kellogg Company; Kroger Pizza, distributed by Kroger Co.; Newman's Own Pizza, distributed by Newman's Own, Inc.; Open Nature, distributed by Lucerne Foods, Inc.; Orv's Pizza, distributed by Five Star Frozen Foods, Inc.; Palermo's Pizza, manufactured by Palermo Villa Inc.; Pizza Romana, distributed by Divine Pasta Co.; Red Baron, distributed by Schwan Food Company; Safeway Select, distributed by Safeway Inc.; Simply Shari's, distributed by Simply Shari's Inc.; Tandoor Chef, distributed by Deep Foods, Inc.; Tony's, distributed by Schwan Food Company; Venice Pizza, distributed by The California Food Company; Vicolo, distributed by Vicolo Wholesale; and Weight Watchers Smart Ones, manufactured by H.J. Heinz Company. A list of such products including specific varieties is identified in Appendix B hereto.

65. Although alternative formulations and substitutes for PHVO were and are available, Defendants elect not to use them in the Nestle Trans Fat Pizzas in order to increase their profits.

**Defendants' Practices Are "Unfair" Within the Meaning of the California Unfair Competition Law**

66. Defendants' practices as described herein are "unfair" within the meaning of the California Unfair Competition Law because their conduct is immoral, unethical, unscrupulous, or substantially injurious to consumers, and the utility of the conduct, if any, does not outweigh the gravity of the harm to Defendants' victims.

67. In particular, while Defendants' use of PHVO in the Nestle Trans Fat Pizzas may have

1 some utility in that it allows Defendants to realize higher profit margins than if they used certain safer  
 2 PHVO substitutes, this utility is small and far outweighed by the gravity of the serious health harm  
 3 imposed upon consumers.

4 68. Nestle and CPK's conduct injures competing manufacturers of frozen pizza that do not  
 5 engage in its unfair, immoral behavior, especially given Defendants' large market share and the limited  
 6 shelf space in retailers frozen food sections.

7 69. Further, Defendants' practices violate public policy as declared by specific constitutional,  
 8 statutory or regulatory provisions, including the California Health and Safety Code § 114377 and  
 9 California Education Code § 49431.7.

10 70. Nestle and CPK's actions also violate public policy by causing the United States,  
 11 California, and every other state to pay-via Medicare, Medicaid, Veterans Health Administration and  
 12 other programs-for treatment of trans fat-related illnesses.

13 71. Further, the injury to consumers from Defendants' practices is substantial, not  
 14 outweighed by benefits to consumers or competition, and not one consumers themselves could  
 15 reasonably have avoided.

#### 16 INJURY

17 72. Plaintiff first discovered Defendants' unlawful acts described herein in October 2012,  
 18 when she learned that Nestle Trans Fat Pizzas contained artificial trans fat and caused heart disease,  
 19 diabetes, cancer, and death, while competing products used safe and commercially acceptable substitutes  
 20 for PHVO.

21 73. Plaintiff lost money as a result of Defendants' conduct described herein in that she  
 22 purchased products that, because they were detrimental to her health, were unfairly offered for sale in  
 23 violation of California law. Had Defendants not violated the law, Plaintiff would not have been able to  
 24 purchase the Nestle Trans Fat Pizzas, or would have only been able to purchase Nestle and CPK pizzas  
 25 containing safe alternatives to PHVO and trans fat.

#### 26 CLASS ACTION ALLEGATIONS

27 74. Plaintiff brings this action on behalf of herself and all others similarly situated (the  
 28 "Class"), excluding Defendants' officers, directors, and employees, and the Court, its officers and their

1 families. The Class is defined as:

2 All persons who purchased in the United States, on or after January 1, 2009, for  
3 household or personal use, frozen pizzas manufactured or distributed by Nestle USA,  
Inc. containing partially hydrogenated vegetable oil.

4 75. Questions of law and fact common to Plaintiff and the Class include:

5 a. Whether Defendants' conduct constitutes a violation of the unfair prong of  
6 California's Unfair Competition Law;

7 b. Whether Defendants' conduct was immoral, unethical, unscrupulous, or  
8 substantially injurious to consumers;

9 c. Whether any slight utility to themselves of Defendants' conduct outweighs the  
10 gravity of the harm the conduct causes to their victims;

11 d. Whether Defendants' conduct violates public policy as declared by specific  
12 constitutional, statutory or regulatory provisions;

13 e. Whether the injury to consumers from Defendants' practices is substantial, not  
14 outweighed by benefits to consumers or competition, and not one consumers themselves could  
15 reasonably have avoided

16 f. Whether Class members are entitled to restitution and, if so, the correct measure of  
17 restitution;

18 g. Whether Class members are entitled to an injunction and, if so, its terms; and

19 h. Whether Class members are entitled to any further relief.

20 76. By purchasing and/or using the Nestle Trans Fat Pizzas, all Class members were  
21 subjected to the same wrongful conduct.

22 77. Plaintiff's claims are typical of the Class' claims. Plaintiff will fairly and adequately  
23 protect the interests of the Class, has no interests that are incompatible with the interests of the Class,  
24 and has retained counsel competent and experienced in class litigation.

25 78. The Class is sufficiently numerous, as it includes hundreds of thousands of individuals  
26 who purchased the Nestle Trans Fat Pizzas throughout the United States during the Class Period.

27 79. Class representation is superior to other options for the resolution of the controversy. The  
28 relief sought for each Class member is small, as little as three or four dollars for some classes members.



1 Absent the availability of class action procedures, it would be infeasible for Class members to redress  
2 the wrongs done to them.

3 80. Defendants have acted on grounds applicable to the Class, thereby making final  
4 injunctive relief or declaratory relief appropriate concerning the Class as a whole.

5 81. Questions of law and fact common to the Class predominate over any questions affecting  
6 only individual members.

7 82. Class treatment is appropriate under FRCP 23(a) and both FRCP 23(b)(2) and 23(b)(3).  
8 Plaintiff does not contemplate class notice if the class is certified under FRCP 23(b)(2), which does not  
9 require notice. Plaintiff contemplates notice via publication if the class is certified under FRCP 23(b)(3)  
10 or if the Court determines class notice is required notwithstanding that notice is not required under  
11 FRCP 23(b)(2). Plaintiff will, if notice is required, confer with Defendants and seek to present the Court  
12 with a stipulation and proposed order on the details of a class notice plan.

### 13 FIRST CAUSE OF ACTION

#### 14 **California Unfair Competition Law, Unfair Prong**

#### 15 **Cal. Bus. & Prof. Code §§ 17200 et seq.**

16 83. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint as if set  
17 forth in full herein.

18 84. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent business act  
19 or practice.”

20 85. The practices and non-disclosures of Defendants as alleged herein constitute “unfair”  
21 business acts and practices in that their conduct is immoral, unethical, unscrupulous, or substantially  
22 injurious to consumers and the utility of their conduct, if any, does not outweigh the gravity of the harm  
23 to Defendants’ victims.

24 86. Further, Defendants’ practices are “unfair” because they violate public policy as declared  
25 by specific constitutional, statutory or regulatory provisions, including the California Health and Safety  
26 Code and California Education Code.  
27  
28

89. Plaintiff also seeks an order for the disgorgement and restitution of all monies from the sale of the Nestle Trans Fat Pizzas, which were acquired through acts of unfair competition.

WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general public, prays for judgment against Defendants as follows:

- A. An Order confirming that this class action is properly maintainable as a nationwide class action as defined above, appointing Plaintiff Katie Simpson and her undersigned counsel to represent the Class, and requiring Defendants to bear the cost of class notice;
- B. An Order requiring Defendants to pay restitution to Plaintiff and the Class so that they may be restored any money which may have been acquired by means of any unfair practice;
- C. An Order requiring Defendants to disgorge any benefits received from Plaintiff and/or unjust enrichment realized as a result of unfair practices;
- D. An Order declaring the conduct complained of herein violates the Unfair Competition Law;
- E. An Order requiring Defendants to cease and desist its unfair practices;
- F. An Order requiring Defendants to engage in a corrective advertising campaign;
- G. An award of prejudgment and post judgment interest;

///

1 H. An award of attorneys' fees and costs; and

2 I. Such other and further relief as this Court may deem just, equitable or proper.

3  
4  
5 DATED: December 6, 2012

Respectfully Submitted,

6  
7 **THE WESTON FIRM**  
8 GREGORY S. WESTON  
9 JACK FITZGERALD  
10 MELANIE PERSINGER  
11 1405 Morena Blvd., Suite 201  
12 San Diego, CA 92110  
13 Telephone: (619) 798-2006  
14 Facsimile: (480) 247-4553  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Appendix A

- DiGiorno:
  - Traditional Crust Personal Pizza Four Cheese
  - Traditional Crust Personal Pizza Pepperoni
  - Traditional Crust Personal Pizza Three Meat
  - Traditional Crust Personal Pizza Supreme
  - Deep Dish Personal Pizza Four Cheese
  - Supreme Pizza & Honey BBQ Boneless Wyngz
  - Pepperoni Pizza & Buffalo Style Boneless Wyngz
  - Pepperoni Pizza & Chocolate Chip Cookie Dough
  - Thin Crispy Crust Pepperoni Personal Pizza
- California Pizza Kitchen:
  - Crispy Thin Crust Pizza Four Cheese
  - Crispy Thin Crust Pizza Signature Pepperoni
  - Personal Pizza BBQ Chicken
  - Personal Pizza Hawaiian
  - Personal Pizza Four Cheese
  - Personal Pizza Margherita
  - Personal Pizza Sicilian Recipe
- Stouffer's
  - French Bread Pizza Cheese
  - French Bread Pizza Three Meat
  - French Bread Pizza Pepperoni
  - French Bread Pizza Sausage and Pepperoni
  - French Bread Pizza Deluxe
  - French Bread Pizza Extra Cheese
  - French Bread Pizza Grilled Vegetables
  - French Bread Pizza Grilled Cheese
  - French Bread Pizza Grilled Five Cheese
  - French Bread Pizza Grilled Pepperoni & Mushroom
  - French Bread Pizza Grilled Sausage

Appendix B

- Amy's Pizza distributed by Amy's Kitchen, Inc. including all of the following varieties:
  - 3 Cheese Pizza with Cornmeal Crust
  - Broccoli & Spinach White Pizza
  - Cheese and Pesto with Whole Wheat Crust
  - Cheese Pizza
  - Four Cheese Pizza
  - Italiano Pizza
  - Light in Sodium Single Serve Spinach Pizza
  - Margherita Pizza
  - Mushroom & Olive Pizza
  - Pesto Pizza
  - Rice Crust Cheese Pizza
  - Rich Crust Spinach Pizza
  - Roasted Vegetable Pizza
  - Single Serve Cheese Pizza
  - Single Serve Margherita Pizza
  - Single Serve Non-Dairy Rice Crust Cheeze Pizza
  - Single Serve Pesto Pizza
  - Single Serve Rice Crust Margherita Pizza
  - Single Serve Rice Crust Roasted Vegetable Pizza
  - Soy Cheeze Pizza, Spinach Pizza
  - Vegan Margherita Pizza
- Freschetta Pizza manufactured by Schwan's Consumer Brands, Inc. including all of the following varieties:
  - Naturally Rising Classic Supreme Pizza
  - Naturally Rising Canadian Style Bacon & Pineapple
  - Naturally Rising Meat Medley
  - Naturally Rising Signature Pepperoni
  - Naturally Rising 4-Cheese Medley
  - Brick Oven Three Meat Medley Pizza
  - Brick Oven 5 Italian Cheese Pizza
  - Brick Oven Pepperoni and Italian Style Cheese Pizza
  - Brick Oven Zesty Italian Style Supreme Pizza
  - Brick Oven Roasted Portabella Mushrooms & Spinach Pizza
  - PizzAmore Pepperoni-Duo
  - PizzAmore 10-Topping Supreme
  - Simply Inspired Harvest Supreme Pizza
  - Simply Inspired Classic Bruschetta Pizza
  - Simply Inspired Hawaiian Style Pizza
  - Simply Inspired Farmers Market Veggie
  - Simply Inspired Rustic Pepperoni Pomodoro
- Glutino Pizza distributed by Glutino Food Group including all of the following varieties:
  - Gluten Free Duo Cheese Pizza
  - Gluten Free Uncured Pepperoni Pizza
  - Gluten Free Spinach & Feta Pizza
  - Gluten Free Chicken Pizza with BBQ Sauce
- Kashi Pizza distributed by Kashi Sales L.L.C., a subsidiary owned by Kellogg Company,



- 1 including all of the following varieties:
  - 2 ○ Thin Crust Pizza Roasted Vegetable
  - 3 ○ Thin Crust Pizza Mushroom Trio & Spinach
  - 4 ○ Thin Crust Pizza Margherita
  - 5 ○ Thin Crust Pizza Mediterranean
  - 6 ○ Thin Crust Pizza Basil Pesto
  - 7 ○ Thin Crust Pizza Roasted Vegetable
  - 8 ○ Thin Crust Pizza Four Cheese
- 9 • Kroger Pizza distributed by the Kroger Co., including all of the following varieties:
  - 10 ○ Pizza Pals Combination Italian Sausage & Pepperoni Pizza
  - 11 ○ Pizza Pals Cheese Pizza
  - 12 ○ Pizza Pals Three Meat Sausage, Canadian Style Bacon & Pepperoni Pizza
- 13 • Newman's Own Pizza distributed by Newman's Own, Inc. including all of the following varieties:
  - 14 ○ Four Cheese Thin & Crispy Pizza
  - 15 ○ Italian Sausage Thin & Crispy Pizza
  - 16 ○ Margherita Thin & Crispy Pizza
  - 17 ○ Roasted Garlic & Chicken Thin & Crispy Pizza
  - 18 ○ Roasted Vegetable Thin & Crispy Pizza
  - 19 ○ Supreme Thin & Crispy Pizza
  - 20 ○ Uncured Pepperoni Thin & Crispy Pizza
  - 21 ○ White Thin & Crispy Pizza
  - 22 ○ Buffalo Style Chicken Thin & Crispy Pizza
- 23 • Open Nature distributed by Lucerne Foods, Inc. including all of the following varieties:
  - 24 ○ Roasted Vegetable Pizza
  - 25 ○ Uncured Pepperoni Pizza
  - 26 ○ Supreme Pizza
  - 27 ○ Four Cheese Pizza
  - 28 ○ Margherita Pizza
- Orv's Pizza distributed by Five Star Frozen Foods, Inc. including all of the following varieties:
  - Ultimate Rizer Three Meat Pizza
  - Ultimate Rizer Pepperoni Pizza
  - Ultimate Rizer Sausage Pizza
  - Ultimate Rizer Special Deluxe Pizza
- Palermo's Pizza manufactured by Palermo Villa Inc., including all of the following varieties:
  - Primo Thin Ultra-Thin Crust Sicilian Pizza
  - Primo Thin Ultra-Thin Crust Supreme Pizza
  - Primo Thin Ultra-Thin Crust Italian Sausage Pizza
  - Primo Thin Ultra-Thin Crust Cheese Lovers Pizza
  - Primo Thin Ultra-Thin Crust Grilled Chicken Caesar Pizza
  - Hand Tossed Style Pizzeria Crust Cheese Pizza
  - Hand Tossed Style Pizzeria Crust Italian Sausage Pizza
  - Hand Tossed Style Pizzeria Crust Combination Pizza
  - Hand Tossed Style Pizzeria Crust Pepperoni Pizza
  - Hand Tossed Style Pizzeria Crust Supreme Pizza
- Pizza Romana distributed by Divine Pasta Co. including all of the following varieties:
  - Margherita Brick oven Pizza
  - Porcini Mushroom & Fontina Brick Oven Pizza

## III

- Roasted Garlic Pesto with Gorgonzola & Walnut Brick Oven Pizza
- Basil Pesto with Mozzarella & Tomato Brick Oven Pizza
- Black Truffle & Wild Mushroom Brick Oven Pizza
- Red Baron distributed by Schwan Food Company including all of the following varieties:
  - Classic Crust 4 Cheese Pizza
  - Classic Crust Special Deluxe Pizza
  - Classic Crust Sausage and Pepperoni Pizza
  - Classic Crust Supreme Pizza
  - Classic Crust 4-Meat Pizza
  - Classic Crust Sausage Pizza
  - Classic Crust Hamburger Pizza
  - Classic Crust Pepperoni Pizza
  - Fire Baked Original Crust Pepperoni Pizza
  - Fire Baked Original Crust 4 Cheese Pizza
  - Fire Baked Thin Crust Pepperoni Pizza
  - Fire Baked Thin Crust 5 Cheese Pizza
  - Fire Baked Thin Crust Supreme Pizza
  - Pepperoni Pizza & Buffalo Wyngs
  - Cheese Pizza & Buffalo Wyngs
  - Feasts for One Original Crust 4-Cheese Pizza
  - Feasts for One Original Crust Pepperoni Pizza
  - Feasts for One Original Crust Supreme Pizza
  - Feasts for One Super Slice 4-Cheese Pizza
  - Feasts for One Super Slice MEAT-TRIO Pizza
  - Feasts for One Super Slice Pepperoni Pizza
  - Feasts for One Super Slice Supreme Pizza
  - Feasts for One Personal Pan Pepperoni Pizza
  - Feasts for One Personal Pan MEAT-TRIO Pizza
  - Feasts for One Personal Pan Supreme Pizza
  - Singles Deep Dish MEAT-TRIO Pizzas
  - Singles Deep Dish Supreme Pizzas
  - Singles Deep Dish Pepperoni Pizzas
  - Singles Deep Dish Cheese Pizzas
  - Singles Deep Dish Sausage Pizzas
  - Singles Deep Dish 4 Cheese Pizzas
  - Baron's Best Hand Tossed Pepperoni Pizza
  - Baron's Best Hand Tossed 4-Cheese Pizza
  - Baron's Best Hand Tossed 4-Meat Pizza
  - Baron's Best Hand Tossed Supreme Pizza
- Safeway Select distributed by Safeway Inc. including all of the following varieties:
  - Cheese Trio
  - Margherita Ultra Thin Crust Pizza
  - Verdi Rising Crust Supremo Classico
- Simply Shari's distributed by Simply Shari's Inc. including all of the following varieties:
  - Gluten Free & Fabulous Pepperoni Pizza
  - Gluten Free & Fabulous Cheese Pizza
  - Gluten Free & Fabulous Pesto Margherita
  - Gluten Free & Fabulous Vegetable Margherita Pizza

- Gluten Free & Fabulous Spinach Feta Pizza
- Tandoor Chef distributed by Deep Foods, Inc. including all of the following varieties:
  - Roasted Eggplant Naan Pizza
  - Margherita Naan Pizza
  - Cilantro Pesto Naan Pizza
  - Spinach & Paneer Cheese Naan Pizza
- Tony's manufactured by the Schwan Food Company including all of the following varieties:
  - Crispy Crust Pizza Pepperoni
  - Crispy Crust Pizza Combination
  - Crispy Crust Pizza Cheese
  - Crispy Crust Pizza Supreme
  - Pizza for One Pepperoni
  - Pizza for One Cheese
  - Deep Dish Pizza Pepperoni
  - Deep Dish Pizza Cheese
  - Deep Dish Single Pizza Cheese
  - Deep Dish Single Pizza Pepperoni
  - Deep Dish Single Pizza Supreme
  - Original Crust Pizza Macaroni & Cheese
  - Original Crust Pizza Chipotle
  - Original Crust Pizza Four Cheese
  - Original Crust Pizza Cheese
  - Original Crust Pizza Hamburger
  - Original Crust Pizza Meat Trio
  - Original Crust Pizza Pepperoni
  - Original Crust Pizza Pepperoni
  - Original Crust Pizza Sausage & Pepperoni
  - Original Crust Pizza Supreme
- Venice Pizza manufactured by The California Food Company including all of the following varieties:
  - Gluten Free Pizza Margherita
  - Gluten Free Pizza Basil Pesto & Cheese
  - Gluten Free Pizza Fresh Mushroom & Provolone Cheese
- Vicolo distributed by Vicolo Wholesale including all of the following varieties:
  - Original San Francisco Corn Meal Crust Four Cheeses Pizza
  - Original San Francisco Corn Meal Crust Roasted Garlic with Mozzarella & Provolone Cheeses Pizza
  - Original San Francisco Corn Meal Crust Roasted Mushroom with Portobello Mushrooms, Sun-Dried Tomatoes & Fresh Basil Pizza
  - Original San Francisco Corn Meal Crust Spinach with Feta and Tomatoes Pizza
  - Original San Francisco Wheat Alternative Spelt & Corn Meal Crust Four Cheeses Pizza
  - Original San Francisco Wheat Alternative Spelt & Corn Meal Crust Spinach with Feta and Tomatoes Pizza
- Weight Watchers Smart Ones manufactured by H. J. Heinz Company including all of the following varieties:
  - Artisan Creations Stone-Fired Crust Pizza Pepperoni
  - Artisan Creations Stone-Fired Crust Pizza Four Cheese
  - Smart Anytime Cheese Pizza Minis